HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLI. (F) NO. 4137 OF 2006.
IN
REJECTED CASE NO. 709 OF 2006.
(FIRST APPEAL ST. NO. 23130 OF 2003)

Krupa Appliances Pvt. Ltd. ..Applicants.

Versus.

M/s. Hitesh Metals & Anr. ..Respondents.

Ms. S. T. Shaik i/b S. K. Srivastav & Co., for the applicants.

Mr. Rajesh Datar for the respondent no.1.

CORAM: S. B. MHASE &
SMT. NISHITA MHATRE, JJ.

DATE: MARCH 2, 2007.

P.C.

1. First Appeal Stamp No. 23130 of 2003 was rejected because of non compliance of the office objections and order passed by this Court in this respect. It is numbered as Rejected Case No. 709 of 2006. This civil application bearing No. 4137 of 2006 has been filed by the applicant for the restoration of the said rejected appeal.

2. The decrees passed in Summary Suit Nos. 1141

of 1996 and 1142 of 1996 were put into execution by filing Execution Petition Nos. 14 of 1999 and 15 of 1999. In the said Darkhasts the property was attached under Order-XXI, Rule-58 of the Code of Civil Procedure, 1908 by a common order. That order was challenged by filing First Appeal Stamp No. 23130 of 2003 which was rejected as stated above, for the restoration of which this civil application has been filed.

3. Today Counsel for both sides are present. Persons mentioned in paragraph 12 of the consent terms are present. Parties have entered into consent terms. As a result of the consent terms, Rejected Case No. 709 of 2006 (i.e., aforesaid First Appeal) stands restored. Therefore, Office is directed to number the said appeal.

4. By these consent terms the parties have settled the total claims involved in Special Darkhast Nos. 14 and 15 of 1999 and have stated that those Darkhasts are fully satisfied in lieu of the payment which has been received by the decree-holders as stated in the consent terms. We find that the consent terms have been voluntarily entered into and already the payments by way of Pay Orders have been made to the decree holders by the respective parties

as stated in the consent terms. Therefore, we find that Special Darkhast Nos. 14 and 15 of 1999 are fully satisfied. Therefore, the order which is challenged in the First Appeal is hereby set aside, and First Appeal also stands disposed of in terms of the consent terms.

5. In view of the satisfaction of the decree as recorded in the consent terms, the Executing Court be informed to dispose of Special Darkhast Nos. 14 and 15 of 1999, which we have recorded. The parties are at liberty to present the copy of this consent terms to get the Darkhasts disposed of.

6. Civil Application and First Appeal are disposed of in terms of the consent terms and Office is directed to draw the decree accordingly.

(SMT. NISHITA MHATRE, J.) **(S.B.MHASE, J.)**

sachin/2007/nnm/..